

OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION
 STATE OF ILLINOIS
 ILLINOIS COMMERCE COMMISSION

Illinois Bell Telephone Company)
)
 Proposed Implementation of High)
 Frequency Portion of the Loops (HFPL)/)
 Line Sharing Service)

JUL 19 1 40 PM '01

Docket No. 00-0393
 CHIEF CLERK'S OFFICE

**ALCATEL USA, INC.'S MOTION TO QUASH THE SUBPOENA RELATED TO
 THE SECOND SET OF DATA REQUESTS OF RHYTHMS LINKS, INC.,
 COVAD COMMUNICATIONS COMPANY, AND SPRINT
 COMMUNICATIONS, L.P. TO ALCATEL USA, INC.**

1. Pursuant to Illinois Commerce Commission Rules of Practice and Illinois Supreme Court Rules, Alcatel USA, Inc. ("Alcatel") hereby moves to quash the Subpoena Duces Tecum issued July 13, 2001 related to the Second Set of Data Requests of Rhythms Links, Inc., Covad Communications Company, and Sprint Communications, L.P. to Alcatel U.S.A., Inc., attached hereto as Attachment A.
2. Alcatel hereby moves to quash the subpoena in its entirety, in particular with respect to Requests 1-3 of the Second Set of Data Requests, on the grounds that each is unreasonable, oppressive, and relates to irrelevant or immaterial matters. Alcatel believes that the primary effect of this discovery request is to harass Alcatel, rather than to lead to the discovery of any information related to the subject matter of Dr. Ransom's testimony. As such, each of these Requests seeks to impose obligations on Alcatel beyond the Illinois Commerce Commission Rules of Practice and Illinois Supreme Court Rules. Without limiting the generality of the foregoing, Alcatel moves to quash Requests 1-3.
3. Alcatel specifically moves the Examiner to quash Requests 1.1-1.6 on the grounds that these Requests are irrelevant to Dr. Ransom's testimony before the Commission. Alcatel has been public regarding its plans to rely, for business reasons, more heavily on outsourced manufacturing in the future. The location and ownership of the plants manufacturing Alcatel equipment relate in no way to any of Dr. Ransom's testimony before the Commission, which relates to the design of the Litespan plug-in line cards and NGDLC equipment, the interoperability and compatibility between the component parts, and the likelihood of negative consequences should equipment having an improper or incompatible design be used in combination with this equipment. Under manufacturing outsourcing arrangements such as those presently contemplated by Alcatel, the fabrication plants gain no rights whatsoever in the design of the products or any rights to make use of the designs other than to populate integrated circuit boards according to Alcatel's design and direction. As such, the information requested is irrelevant and immaterial to Dr. Ransom's testimony before the Commission and Alcatel therefore moves the Examiner to quash the subpoena.

4. Alcatel specifically moves the Examiner to quash Request 2 on same grounds as Requests 1.1 – 1.6, in that these Requests, which seek essentially the same information, are irrelevant to Dr. Ransom's testimony before the Commission. As such, the information requested is irrelevant and immaterial to Dr. Ransom's testimony before the Commission and Alcatel therefore moves the Examiner to quash the subpoena.

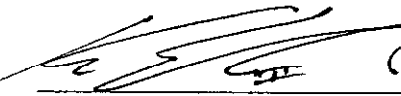
5. Alcatel specifically moves the Examiner to quash Request 3 on the grounds that it is duplicative in that this Request substantially requests the same information as that provided in response to Request #4 of the First set of Requests. As such, this request is duplicative of earlier discovery requests and Alcatel therefore moves the Examiner to quash the subpoena.

6. In addition to the above, Alcatel moves the Examiner to quash the subpoena in its entirety on the grounds that it is unreasonable and oppressive, and at this late point in time, has the primary effect of harassment of Alcatel rather than the production of any information relevant to the testimony of Dr. Ransom. If the parties seeking this discovery truly felt that the outsourcing data presently sought was relevant to Dr. Ransom's testimony, they had ample opportunity to request such information well before July 9, 2001. In fact, however, the requesting parties, acting according to what appears at this point to be their standard operating procedure, delayed in filing their request until July 9, and then delayed in filing their subpoena until July 13. Under 83 Ill. Admin. Code § 200.380, with which the requesters are no doubt familiar, a subpoena is not, except in the case of an emergency, to be issued until seven days have been provided for a response. In this case, no such emergency exists, and the only situation partly resembling an

emergency was created by the requesting parties themselves. Accordingly, Alcatel moves the Examiner to quash the present subpoena rather than rewarding the requesting parties for their repeated maneuvering tactics.

Respectfully submitted,

July 16, 2001

By:  (Ken EMANUELSON)

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document was served on July 16, 2001 by hand at the Renaissance Hotel, Springfield Illinois, to the following:

Rhythms Links, Inc. ("Rhythms") by and through its attorney, Stephen P. Bowen, Blumenfeld & Cohen;

Covad Communications Company ("Covad") by and through its attorney, Felicia Franco-Feinberg; and

Sprint Communications, L.P. ("Sprint") by and through its attorney, Kenneth Schifman, Sprint Communications, L.P.

This is to further certify that a true and correct copy of the foregoing document was served via regular mail on July 16, 2001 to the following:

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